IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.500 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

Ghatge Patil Transport Pvt. Ltd. ..Respondent.

Mr.A.S.Rao for applicant.
Mr.P.Y.Vaidya with S.N.Inamdar for respondent.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 21ST MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is legally justified in holding that the remuneration paid to the Managing Director is governed by the provisions of section 40(c) of the I.T.Act, 1961 and not by the provisions of Section 40A(5) of the Act ? "

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)